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RICHARD W. VIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 Attorneys for Plaintiffs,
9 WARNER BROS. RECORDS INC.; BMG
10 MUSIC; UMG RECORDINGS, INC.;
11 SONY BMG MUSIC ENTERTAINMENT;
12 CAPITOL RECORDS, LLC; and
13 ATLANTIC RECORDING
14 CORPORATION

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 DIVISION

HRL

CV 08

3993

CASE NO.

18 WARNER BROS. RECORDS INC., a Delaware
19 corporation; BMG MUSIC, a New York general
20 partnership; UMG RECORDINGS, INC., a
21 Delaware corporation; SONY BMG MUSIC
22 ENTERTAINMENT, a Delaware general
23 partnership; CAPITOL RECORDS, LLC, a
24 Delaware limited liability company; and
25 ATLANTIC RECORDING CORPORATION, a
26 Delaware corporation,

27 Plaintiffs,

28 v.

JOHN DOE,

Defendant.

EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____

#39486 v1

ORIGINAL

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant, who is
 8 being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
 10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
 11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
 12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
 13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
 17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

21 WHEREFORE, Plaintiffs apply for an Order permitting Plaintiffs to conduct the foregoing
 22 requested discovery immediately.

23 Dated: August 21, 2008

HOLME ROBERTS & OWEN LLP

24 By 

25 DAWNIELL ZAVALA

26 Attorney for Plaintiffs

27 WARNER BROS. RECORDS INC.; BMG MUSIC;
 28 UMG RECORDINGS, INC.; SONY BMG MUSIC
 ENTERTAINMENT; CAPITOL RECORDS, LLC;
 and ATLANTIC RECORDING CORPORATION